



# South Carolina Department of Insurance

1201 Main St, Suite 1000  
Columbia, South Carolina 29201

Mailing Address:  
P.O. Box 100105, Columbia, S.C. 29202-3105  
Telephone: (803) 737-6130

MARK SANFORD  
Governor

SCOTT H. RICHARDSON  
Director of Insurance

## MEDIA ADVISORY

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For Immediate Release

Contact: Ann Roberson  
803-737-6207

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### Capital Assurance Risk Retention Group Placed in Receivership

The South Carolina Department of Insurance (Department) announced today that Capital Assurance Risk Retention Group (CARRG) has been placed in receivership for the purposes of rehabilitation. The members of the CARRG included Ultimate Warranty Corporation, Extended Auto Warranty, Warrentec Automotive Inc., Ultimate Warranty of Arizona, Ultimate Warranty of Wisconsin, First Warranty Group, Warranty America, LLC, and Mechanical Breakdown Administrators. These members are the only insureds of the risk retention group based on our current information. All of the owner-members of CARRG were service contract providers or obligors insured by CARRG. The owner-members of CARRG sold warranty and extended warranty contracts (also called "vehicle service contracts") to consumers on new and used automobiles.

On October 31, 2007, the Richland County Court of Common Pleas issued an order placing CARRG into receivership and appointed the Director of the South Carolina Department of Insurance as Receiver. The order directs the Receiver to take control of the affairs of CARRG, and places exclusive title to its property and assets in the Receiver. The order was entered because the financial condition of Ultimate Warranty Corporation, CARRG's primary owner-member, has impacted CARRG such that any future transaction of their business would be hazardous to CARRG's policyholders and the public.

The Receiver with assistance from the South Carolina Department of Insurance is now managing all of the affairs of the receivership estate of CARRG and is implementing a plan to pay the

claims against this estate in the most cost-effective means possible over the next ten years until the expiration of the last underlying warranty contract. “We are assembling a team of experts including actuaries, accountants, attorneys and other consulting firms to stabilize the financial and operating condition of CARRG and to design and implement a plan for its orderly rehabilitation, if possible,” stated, Scott H. Richardson, Director of the South Carolina Department of Insurance. “We are currently analyzing the financial condition of CARRG and developing a payment plan for the fair and equitable treatment of all covered claimants. Some claims will remain the responsibility of Ultimate Warranty Corporation, other member-owners of CARRG or other insurers that insured the underlying warranty obligations.”

The Receiver with the assistance of the South Carolina Department of Insurance is in the process of determining if some of the warranty contracts issued by Ultimate Warranty may be insured by other reimbursement liability policies. Risk retention groups are not covered by the South Carolina Property and Casualty Insurance Guaranty Association or any similar associations in other states. Therefore, if a risk retention group becomes insolvent, its insureds cannot rely on the safety net provided by these guaranty associations. If some of the warranty contracts were insured by other insurers that are not risk retention groups, then there may be some guaranty fund protection in some states. This issue is currently under review.

*Background Information regarding Capital Assurance Risk Retention Group is attached.*

For information concerning Capital Assurance Risk Retention Group please visit <http://www.doi.sc.gov>, DOI Legal, Capital Assurance Risk Retention Group, In Rehabilitation. For questions concerning the media release, please contact Ann Roberson, Public Information Officer, at 803-737-6207. The Receiver is attempting to secure an 800 number to connect directly to the office in Ohio. That information will be provided in a separate press release.

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## ***Background Information Regarding Capital Assurance Risk Retention Group***

### ***The Insurance Program***

A risk retention group is an insurance company whose primary purpose is assuming and spreading the liability exposures of its members. The members own the risk retention group and obtain all or part of their liability insurance through the group. CARRG was owned by the Ultimate Warranty Corporation, Extended Auto Warranty, Warrantec Automotive, Inc., Ultimate Warranty of Arizona; Ultimate Warranty of Wisconsin, First Warranty Group, Warranty America, LLC and Mechanical Breakdown Administrators. These members are the only insureds of the risk retention group. All of these owner-members were service contract providers or administrative obligors. They sold the warranty and extended warranty contracts to consumers on new and used automobiles. Each administrative obligor upon licensure was required to establish a trust or Loss Reserve Fund for the payment of claims. CARRG provided liability insurance coverage, subject to several conditions, to these administrative obligors. According to the terms of the policy issued by CARRG to Ultimate Warranty and other administrative obligors, CARRG would pay claims only after other insurance and all funds in the Loss Reserve Accounts had been exhausted. Ultimate Warranty and Extended Auto Warranty were the primary stockholders of CARRG. The licenses in South Carolina for these two service contract providers have been canceled or have expired.

### ***Reasons for Regulatory Action***

Ultimate Warranty, CARRG's principal stockholder, at one time presented financial documents to the South Carolina Department of Insurance which indicated that the Loss Reserve Fund it was required to establish and hold in trust for the purpose of paying claims was capitalized with \$48 million. The projected claims liability of CARRG was valued at less than \$2 million. In late September 2007, the Department during a periodic review of the Loss Reserve Funds was not able to verify all of the assets listed in the Loss Reserve Fund. The insurer was placed immediately under supervision by the Department. Due to the insufficient Loss Reserve Funds, other accounting and operational irregularities, and the deteriorating financial condition of CARRG's primary stockholder, Ultimate Warranty, the Department determined that immediate regulatory action was appropriate to protect the interests of warranty contractholders and the public. Ultimate's liability on the warranty contracts it sold was estimated to be \$44 million. Since the policy purportedly provides, *inter alia*, that CARRG pays claims in the event Ultimate Warranty is unable to pay, CARRG may be responsible for some the claims presented by Ultimate Warranty to CARRG on or before October 31, 2007. The Loss Reserve Fund which was managed by Ultimate Warranty Corporation does not have the assets it was required to maintain in trust. Recent reports indicate that it has less than \$15,000 in this fund. The average cost of the warranty contracts sold by Ultimate Warranty Corporation was \$2000. CARRG received approximately \$30-\$48 in premium for its reimbursement policy from each warranty contract sold.

### ***No Guaranty Fund Protection for Risk Retention Groups***

Some of the warranty contracts issued by Ultimate Warranty may be insured by other reimbursement liability policies. The Department is in the process of trying to determine if other insurers were effectively involved. The liability exposures of the administrative obligors may be insured by different insurers during different periods of time. Coverage of this risk (in relation to the underlying warranty contracts being issued during any given period of time) can be shifted from one insurer to another and back to the original insurer with relative ease. Additionally, risk retention groups are not covered by the South Carolina Property and Casualty Insurance Guaranty Association or any similar associations in other states. Therefore, if a risk retention group becomes insolvent, its insureds cannot rely on the safety net provided by these guaranty associations. If some of the warranty contracts were insured by other insurers that are not risk retention groups, then there may be some guaranty fund protection in some states. This issue is currently under review.